

**REQUEST  
FOR  
CONTINUED EXAMINATION (RCE)  
TRANSMITTAL**

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.

See The American Inventors Protection Act of 1999 (AIPA).

Express Mail No.	HAND CARRY
Application Number	09/828,625
Filing Date	04/09/2001
First Named Inventor	D. Paul
Group Art Unit	3738
Examiner Name	S. Jackson
Attorney Docket Number	8932-295

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

**1. Submission required under 37 C.F.R. § 1.114**

- a.  Previously submitted
  - i.  Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_ (Any unentered amendment(s) referred to above will be entered).
  - ii.  Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
  - iii.  Other \_\_\_\_\_
- b.  Enclosed
  - i.  Communication Submitted with Request for Continued Examination (RCE)
  - ii.  Information Disclosure Statement and revised Form PTO-1449

**2. Miscellaneous**

- a.  Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of 3 months.
- 3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed
  - a.  The Director is hereby authorized to charge the required fees, or credit any overpayments, to Pennie & Edmonds LLP Deposit Account No. 16-1150, including:
    - i.  RCE fee required under 37 C.F.R. § 1.17(e), estimated to be \$ 750.00
    - i.  Three (3) month suspension of action fee under 37 C.F.R. § 1.17(i), estimated to be \$ 130.00

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

*Seth A. Watkins*  
*FOR: Brian M. Rothery*  
Seth A. Watkins Reg. No. 47,169  
For: Brian M. Rothery Reg. No. 35,340

January 23, 2003

Dated

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or by facsimile transmitted to fax no. 1-703-\_\_\_\_\_ to the U.S. Patent and Trademark Office on the date indicated below.

Name (Print/Type)		Registration No. (Attorney/Agent)
Signature		Date

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Commissioner for Patents, Box RCE, Washington, DC 20231.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: D. PAUL *et al.*

Application No.: 09/828,625

Group Art Unit: 3738

Filed: April 9, 2001

Examiner: S. Jackson

For: INTERVERTEBRAL ALLOGRAFT Attorney Docket No.: 8932-295  
SPACER

**COMMUNICATION SUBMITTED WITH  
REQUEST FOR CONTINUED EXAMINATION (RCE)**

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**Box RCE**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicants have filed concurrently herewith a Request for Continued Examination (RCE), in part, to suspend action on the present application.

On August 22, 2002, a reissue application of U.S. Patent No. 6,258,125 B1 (“the ‘125 patent”) was filed to correct the priority claim in the ‘125 patent. The reissue application of the ‘125 patent has been assigned application no. 10/225,282, and currently is pending.

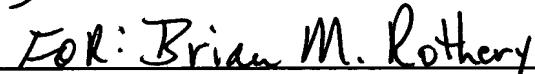
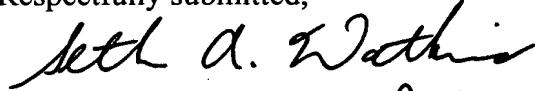
Applicants believe that by correcting the priority claim in the ‘125 patent, the priority claim in the present application will be perfected.

Finally, Applicants note that a Second Information Disclosure Statement was submitted on August 23, 2002. Applicants have not yet received an initialed revised Form PTO-1449. Applicants respectfully request that the references be made of record in this application, and that the Examiner complete and return an initialed revised Form PTO-1449.

A copy of the Second Information Disclosure Statement and revised Form PTO-1449 is attached hereto, along with a copy of the date-stamped postcard evidencing the filing.

No fee is believed to be due for this submission. Should any fees be required, however, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,



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Date January 23, 2003

Seth A. Watkins                          Reg. No. 47,169  
*For:* Brian M. Rothery                          Reg. No. 35,340

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